

Federal Communications Commission

FCC MAIL SECTION

Before the
Federal Communications Commission
Washington, D.C. 20554
JUN 19 3 23 PM '92DISPATCHED BY
CC Doc No. 92-137

In the Matter of

Amendment of Section
22.521(b) of the Commission's
Rules to amend the table
of assignments for air-ground stations
in the Public Mobile Service.

RM 7859

NOTICE OF PROPOSED RULE MAKING

Adopted: June 18, 1992;

Released: July 1, 1992

By the Commission:

1. On October 18, 1991, Schaller Telephone Company (STC) filed a Petition for Rule Making (RM 7859) requesting the allocation of working channel 3 (454.850 MHz) to Schaller, Iowa. Schaller is in Sac county in northwest Iowa, south of the Storm Lake Recreation Region, about 57 miles east of Sioux City and 105 miles northwest of Des Moines.

2. Air-ground radiotelephone service is a public radio service between a base station and airborne mobile stations. In creating the air-ground service, the Commission established the goal of encouraging the provision of nationwide service utilizing the minimum amount of spectrum necessary. The Commission recognized that its allocation of 12 air-ground channels would permit nationwide service if the channels were used in sufficiently separate geographic areas. *Air - Ground Service*, 22 FCC 2d 716 (1969).

3. STC states in its petition that the allocation of channel 3 to Schaller, Iowa would allow for air-ground communications for planes using Storm Lake Municipal Airport¹ as well as those in transit between Sioux City and Fort Dodge.

4. In view of the apparent need for air-ground communications service in the Schaller, Iowa area, and since STC's proposal meets our minimum distance standards for co-channel separation, the Commission proposes to amend 47 C.F.R. Section 22.521(b) to assign channel 3 to Schaller, Iowa as set forth in the Appendix to this Notice.

PROCEDURAL MATTERS

5. The Commission invites comments on this proposal. The procedures to be followed in submitting comments in this proceeding are similar to those followed in proceedings to amend the FM or Television Table of Assignments in Section 1.420 of the Commission's rules. The procedures are discussed below.

6. *Cut-off procedures.* The following procedures govern the consideration of filings in this proceeding:

(a) Counterproposals made in this proceeding will be considered if they are made in initial comments so that parties may comment on them in reply comments. Counterproposals will not be considered if made in reply comments (See Section 1.420(d) of the Commission's rules).

(b) Petitions for Rule Making which conflict with the proposal of this Notice will be considered as comments. Public notice of such treatment will be given so long as the petitions are filed before the date for filing initial comments. If they are filed after that date, they will not be considered in connection with the decision in this proceeding.

7. *Dates and service.* Under the procedures set out in Sections 1.415 and 1.420 of the Commission's rules, interested parties may file comments on or before **August 21, 1992** and reply comments on or before **September 7, 1992**. All submissions made by parties to this proceeding or on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings. These comments and reply comments must be accompanied by a certificate of service (See Section 1.420(a)-(c) of the Commission's rules). Reply comments must be served on the person(s) who filed comments.

8. *Number of copies.* Under Section 1.420 of the Commission's rules, an original and four copies of all comments, reply comments, pleadings, briefs or other documents must be submitted to the Commission.

9. *Public inspection of filing.* All findings made in this proceeding are available for inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

EX PARTE

Ex Parte Rules - Non-Restricted Proceeding

10. This is a non-restricted notice and comment Rule Making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. See generally 47 C.F.R. Sections 1.1202, 1.1203 and 1.1206(a).

REGULATORY FLEXIBILITY ACT.

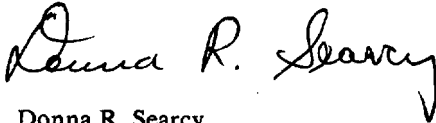
11. We certify that the Regulatory Flexibility Act does not apply to this rule making proceeding because if the proposed rule amendments are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq* (1981).

ORDERING CLAUSES

12. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154(i), 154(j) and 303(r), that a NOTICE OF PROPOSED RULE MAKING IS ISSUED, proposing amendment of 47 C.F.R. Section 22.521(b) as set forth in the Appendix below.

13. IT IS FURTHER ORDERED that the Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

FEDERAL COMMUNICATIONS COMMISSION



Donna R. Searcy
Secretary

APPENDIX

Proposed Rule Changes:

Part 22 of Title 47 of the C.F.R. is proposed to be amended as follows:

1. The authority citation for Part 22 continues to read as follows:

AUTHORITY: Secs. 4, 303, 48 Stat. 1066, 1083, as amended; 47 U.S.C. 154,303.

2. Section 22.521 is amended by adding a location and channel in the table in paragraph (b) for Schaller, Iowa to read as follows:

22.521 Air-ground radiotelephone service.

(b) ***

Location	Channel

Indiana: Vincennes	11
Iowa:	
Schaller	3
Waterloo	12
Kansas:	
Colby	9, 11
Salina	1

FOOTNOTE

¹ STC cites a survey by the Iowa Department of Transportation showing approximately 9,000 general aviation departures/arrivals at Storm Lake in 1989. STC also conducted its own survey among general aviation interests and found a significant interest in local air-ground communications service.